

REMARKS/ARGUMENTS

1. The Applicant has carefully considered the official communication and Detailed Action of March 19, 2008. Please find below Applicant's arguments and remarks which are believed to be fully responsive to the rejections raised by the Examiner in the Detailed Action.
2. **In paragraph 2** of the Detailed Action the Examiner rejects claims 1 and 5 as being indefinite. Applicant submits that the above amendments to the claims have overcome this rejection.
3. **In paragraphs 7 and 8** of the Detailed Action the Examiner rejects claims 1, 5, 11-15 and 18 under 35 U.S.C. 103 as being unpatentable over Hinestroza (US 6,224,018) in light of Haynes (US 4,828, 207). Applicant respectfully submits that the new claims have removed this ground of objection in view of the following comments made according to 37 CFR 1.111(b).
4. With specific reference to section 2100 of the MPEP relating to patentability and the subsequent Supreme Court decision in *KSR International Co. v. Teleflex Inc.*, the key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in *KSR* noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. Rejections on obviousness cannot be sustained by mere conclusory statements (*In re Kahn*, Fed. Cir. 2006, reaffirmed in *KSR*). Instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness (*KSR*).
5. **Hinestroza does not include a seal.** Applicant respectfully submits that the Examiner has erred in this conclusion. Hinestroza makes no mention of any seal between the capsule 40 and the door portion 42. The Examiner regards the non-flammable foam rubber fifth layer 48 of the capsule as the seal (col. 4, lines 54-55). However, and as clearly shown in Figure 4 and described in col. 4, line 32 to 40, the door portion 42 slides along the inner surface 44, which is fiber glass. As such, although the layers of the capsule might be air-tight (nowhere mentioned in Hinestroza), Hinestroza makes no mention of any seal between the door 42 and the capsule 40. It seems that the description of the respective layers of the capsule in col. 4 and 5 relates rather towards crash protection than any hyperbaric application. Accordingly, Hinestroza makes no mention whatsoever of a base molding or canopy with seal-lines for an air-tight capsule, as required by claim 1 of the current application. Any interpretation along such lines would be mere conclusory statements.
6. **Hinestroza is not a pressure/hyperbaric capsule.** Applicant again submits with respect that the Examiner has incorrectly assumed that the oxygen tank 27 (col. 3, line 67) implies that the Hinestroza capsule is under hyperbaric pressure. This is supported not only by the reasoning above that the capsule is not air-tight, but by the description itself. The presence of oxygen tank 27 is explained by reference to the wetsuit 55 on col. 5, lines 46-50. Otherwise, by similar argument, the capsule is also water pressurized as implied by the presence of water tank 28 (col. 3, line 67). Rather, these items (air tank 27, water tank 28, battery 26 and transmitter 29, wetsuit 55, raft 60 and parachute) are provided to aid post-crash survival, as the Hinestroza capsule relates exclusively to an occupant protection system. Given the differing

fields between Hinestroza and the current application, neither air tank 27 nor any other structure of the Hinestroza capsule supports any argument of hyperbaric application.

8. Notwithstanding the above comments, neither Hinestroza nor Haynes discloses pressurization means or a pressure regulator as claimed in claim 1, as currently presented. As such, Applicant submits that the claim rejections based on the cited prior art are rendered ineffective by the new claims and remarks provided herein. Applicant further submits that claims 2-18 introduce inventive limitations dependent on the inventive base claim argued above.
9. It is respectfully submitted that the above remarks and new claims address all of the Examiner's rejections. In light hereof, Applicant courteously solicits reconsideration and allowance of the application.

CONCLUSION

Applicant respectfully requests reconsideration of the claims in view of the amendments and remarks made herein. A notice of allowance is earnestly solicited.

Petition is hereby made under 37 CFR 1.136(a) to extend the time for response to the Office Action of 06/19/08 to and through 07/19/08, comprising an extension of the shortened statutory period of one month.

At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account **50-3444** pursuant to 37 C.F.R. 1.25. Additionally, please charge any fees to Deposit Account **50-3444** under 37 C.F.R. 1.16, 1.17, 1.19, 1.20 and 1.21.

Respectfully submitted,

/mark a. wilson/

Date: July 21, 2008

Mark A. Wilson

Reg. No. 43,994

Wilson & Ham
PMB: 348
2530 Berryessa Road
San Jose, CA 95132
Phone: (925) 249-1300
Fax: (925) 249-0111